

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0063/P1dn
ARG:jld:ph

May 24, 2013

ATTN: Justin Phillips

Please review the attached draft carefully to ensure that it is consistent with your intent.

As we discussed when we first began working on the drafting, the first draft of LRB-1455 prevented a municipality from using its "open container" ordinance to effectively shut down the operation of pedal taverns. I was instructed to remove this in the second draft and the provision has not been included in any succeeding draft, including the version introduced as AB-169. Therefore, this substitute amendment does not affect municipal authority to, by ordinance, prohibit operation of commercial quadricycles under the theory that the passengers of the commercial quadricycle are violating the municipality's "open container" ordinance. The newspapers have reported that, in the city of Milwaukee, the Milwaukee Police Department cracked down on pedal taverns under the theory that they were violating the city's open container ordinance. The Milwaukee Journal Sentinel reported on October 5, 2012, that the city attorney "said having intoxicants on the Pedal Tavern violates the law against having open intoxicants on the street." *City Cracks Down on Drinking Aboard Pedal Tavern*, at

www.jsonline.com/news/milwaukee/pedal-tavern-loses-its-beer-power-fb74d6o-172851141.html

This issue is again important because of the changes in sections 2 and 3 that were requested for this substitute amendment. While this substitute amendment creates an "opt out" for purposes of s. 125.09 (1), it does not affect the many "open container" ordinances that may be used to prohibit the consumption of beer on commercial quadricycles. Accordingly, it does not necessarily authorize the operation of commercial quadricycles statewide.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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